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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council

**DATE:** August 26, 2010

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** TA10-006 - An Ordinance to Amend Article 4, General Provisions, of the Sandy Springs Zoning Ordinance

**MEETING DATE:** For Submission onto the September 7, 2010, City Council Work Session Meeting Agenda

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**BACKGROUND INFORMATION:** (Attach additional pages if necessary)

See attached:

Memorandum  
Ordinance

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**APPROVAL BY CITY MANAGER:**  JMM  APPROVED

\_\_\_\_\_ NOT APPROVED

**PLACED ON AGENDA FOR:**  9/7/10

**CITY ATTORNEY APPROVAL REQUIRED:** (  ) YES (  ) NO

**CITY ATTORNEY APPROVAL:**  [Signature]

**REMARKS:**



To: John McDonough, City Manager

From: Nancy J. Leathers, AICP, Director, Department of Community Development 

Date: August 24, 2010 for Submission onto the September 7, 2010 Mayor and City Council Work Session Agenda

Subject: Proposed TA10-006, An Ordinance to Amend Article 4, General Provisions, of the Sandy Springs Zoning Ordinance

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Please find enclosed a proposed text amendment to Article 4, General Provisions, of the Sandy Springs Zoning Ordinance, with corresponding mark-up.

***Background:***

The Mayor and City Council adopted a resolution on June 1, 2010 directing staff to review, clarify, and recodify the Zoning Ordinance with the assistance of the City Attorney's office to address recent developments in the law and issues that have been raised during the implementation, administration, and enforcement of the Zoning Ordinance. This recodification will not include any policy changes to the ordinance.

***Discussion:***

Staff has determined to revise Article 4, General Provisions of the City's Zoning Ordinance as part of the comprehensive overhaul of the ordinance.

***Planning Commission Recommendation:***

The Planning Commission heard the amendment at the June 17, 2010 meeting and recommended approval as presented by staff (4-0, Duncan, Thatcher, Rupnow, and Pond for; Maziar, Rubenstein, and Tart absent).

***Mayor and City Council Action:***

The Mayor and City Council deferred the item at the August 17, 2010 meeting to allow staff to clarify the language in the Nonconforming section of the ordinance (6-0, Paulson, Fries, Collins, Jenkins, DeJulio, and McEnery for; Galambos not voting).

***Alternatives:***

The City Council could choose to not recommend the changes prepared by staff.

cc: Wendell K. Willard, City Attorney

ARTICLE IV

GENERAL PROVISIONS

- 4.1. SCOPE AND INTENT. This article includes a variety of regulations that apply to uses and structures allowed in more than one ~~(1) use district~~ **use district** or to uses and structures allowed in all ~~use district~~ **use districts** except when specifically excluded by provisions contained elsewhere in this Ordinance.
- 4.1.1. OTHER LAWS APPLY. Compliance with this Ordinance shall not substitute for compliance with federal and state laws ~~nor~~ for other City ~~of Sandy Springs~~ ordinances and resolutions.
- 4.1.2. JUDICIAL AND QUASI-JUDICIAL ACTIONS. ~~—~~Zoning-related legal proceedings or appeals to boards designated within this Ordinance shall stay deadlines and expiration dates which are designated in this Ordinance. Appeals from decisions of the City Council and the Board of Appeals shall be brought within **thirty (30) days in accordance with the provisions of Article XXII of this Ordinance.** Appeals from the application, interpretation and administration of this Ordinance shall be to the Board of Appeals **in accordance with the provisions of Article XXII of this Ordinance** unless otherwise specifically provided for in ~~the various sections of~~ this Ordinance.
- 4.1.3. ADMINISTRATIVE APPROVAL. ~~The a~~Action on a request brought under a provision of ~~the Zoning~~**this** Ordinance which requires approval by at least one ~~(1) City of Sandy Springs~~ official, **shall be** accompanied or followed by an interoffice memorandum which shall be addressed to, and included in, the appropriate zoning file or alternate file if there is no zoning file. A courtesy copy of the authorization memo**randum** shall be sent to the Directors **and to the Director** of the Department of Public Works, ~~and the Department of Community Development.~~
- 4.2. LOT, STRUCTURE AND USE REGULATIONS
- 4.2.1. USE, PERMITTED USE, CHANGE OF USE. Properties shall be used and structures or parts thereof shall be erected, constructed, reconstructed, modified, moved, enlarged, or altered in conformity with the regulations contained in this Ordinance and any conditions of zoning.
- A. Permitted Uses. ~~—~~If either a specific use or a class of use is not listed as a permitted use in compliance with the zoning district standards and any zoning conditions, such specific use or class of use shall be prohibited in that district.

B. Change of Use. Any change of use, including a change of a single use within a multiple use structure, shall comply with the requirements of this Ordinance and any condition of zoning.

C. Single Family Dwelling District Limitations. Single family dwelling districts shall be restricted to no more than one (1) main or principal structure per lot.

4.2.2. OPEN.

4.2.3. REDUCTION OF LOT AREA. When a lot or property is reduced in size, all resulting divisions and all structures shall meet the minimum requirements of the applicable provisions of this Ordinance; except that if a lot or property is reduced in area to less than the ~~district~~ minimum lot size as a result of government action, the lot shall be deemed nonconforming.

4.2.4. DIVISION OF CONDITIONALLY-ZONED PARCELSLOTS. All lots of a proposed subdivision must be in keeping with unit and density allocations, and other conditions of zoning as well as the Subdivision Regulations and this Ordinance. If each proposed parcel does not conform to such conditions, the proposed ~~division~~ shall require a rezoning to accomplish the desired modification of conditions.

4.2.5. USES AND STRUCTURES PERMITTED IN YARDS, AND OUTSIDE STORAGE.

A. Uses and Structures Permitted in Yards. In addition to uses which may be provided for, conditioned ~~or~~ excluded from yards by other sections of this Ordinance, yards may be used for driveways, signs, at-grade parking, loading areas, fountains, flag poles, yard ornaments not to exceed four (4) feet in height, walls, fences, walkways, lawns, buffers, landscape areas, underground utilities, well houses, storm water management facilities and tree ~~preservation~~ **conservation** areas. No part of any yard or use made thereof shall serve the requirements for any other lot or structure.

B. Limitations on the Location of Outside Storage and Accessory Displays. Outside storage and accessory displays are permitted as indicated below for the various ~~use-district~~ **zoning districts**.

1. Outside Storage Associated with Residential Uses or Districts Including AG-1 Used for Residential Purposes Only. ~~Such~~ **Outside** storage is permitted in side and rear yards only, and must be screened from adjoining residential uses and from streets with an opaque fence or a vegetative screen which complies with Appendix G of the Tree Conservation Ordinance ~~[See Code Ch. 26, Art. VI].~~ ~~Any~~ **outside** storage not normally associated with residential use shall be prohibited.

2. Outside Storage Associated with Industrial Uses or Districts. Outside storage is permitted in rear and side yards only in the M1-A ~~District~~ **district** and in all yards in the M-2 ~~District~~ **district**. Outside storage shall be located at least **twenty-five (25)** feet from any residential property line. ~~Such~~ **Outside** storage must be screened, in accordance with Appendix G of the Tree Conservation Ordinance ~~[See Code Ch. 26, Art. VII],~~ from neighboring residential uses in all industrial districts and from streets in the M-1A and M-1 ~~Districts~~ **districts**.
  
3. Outside Storage Associated with Institutional, Office and/or Commercial Uses or Districts. Outside storage is permitted only within rear yards, and shall be located at least **twenty-five (25)** feet from any residential property line. —Such storage must be screened from neighboring residential uses and streets with an opaque fence or a vegetative screen which complies with Appendix G of the Tree Conservation Ordinance ~~[See Code Ch. 26, Art. VII].~~
  
4. Outside Accessory Display Associated with Commercial and/or Industrial Uses or Districts. —Accessory displays =for merchandise which is being offered for sale on-premise shall be permitted in the commercial and industrial districts only. Such displays may be located in any yard as long as it is not located in a minimum yard. Vehicle and similar displays may be located in minimum front yards, but may not encroach upon minimum landscape areas. **As provided in Article XXXIII of this Ordinance, portable signs, including signs on or attached to any parked vehicle or trailer, so as to be visible from a public right-of-way, are prohibited in the City.**

4.2.6. MAINTENANCE OF VEGETATION. Pervious surfaces including yards shall be permanently maintained and shall be landscaped with grass, trees, shrubs, hedges and/or other landscaping materials approved by the City Arborist.

4.2.7. LOTS WITH WELL AND/OR SEPTIC TANK. Any lot upon which both an individual well and septic tank/drain field are utilized shall be governed by regulations of the Fulton County Health Department. Lots utilizing both a well and a septic tank shall be not less than one **(1)** acre in size. Any lot proposed to be served by either a well or a septic tank/drain field shall comply with the larger of the minimum lot area required by ~~the Health Code~~ **regulations of the Fulton County Health Department** or the minimum required for the **zoning** district in which the lot is located.

4.2.8. MULTIPLE ZONING. Whenever a lot is zoned for more than one **(1)** single family dwelling district, the district which comprises the largest area shall control the development standards for that lot.

4.2.9. BUILDING SEPARATIONS. All building separations shall be as specified by the ~~Standard~~ **International** Building Code.

4.2.10. MINIMUM LOT WIDTH ~~(amended 08/01/06, RZ06-036, Ord. 2006-08-51).~~ The minimum lot width required ~~per the~~ **applicable** zoning district **regulations** shall be achieved at a distance no greater than the sum of the required minimum front yard/setback and minimum rear yard/setback. In addition, the minimum lot width shall be maintained through the depth of the buildable area

4.3. EXCEPTIONS ~~(amended 06/16/09, TA09-010, Ord. 2009-06-31).~~ ~~—~~ This ~~ordinance~~ **Ordinance** shall apply to every lot, parcel, property, use and structure in ~~the City of Sandy Springs~~ except as excluded in this section. Furthermore, the provisions herein shall not apply to properties and structures owned, operated and/or leased for use by the City for public purposes. ~~The~~ use of said property for a nonconforming use does not establish a precedent for other nonpublic (governmental) uses. Should the public use cease to exist, the provisions herein shall apply.

Antennas or towers located on property owned, leased or otherwise controlled by the City shall be exempt from the requirements of this ~~ordinance~~ **Ordinance**, provided a license or lease authorizing such antenna or tower has been approved by the City.

4.3.1. **NONCONFORMING LOTS, USES OF LAND AND USES OF STRUCTURES.** **The purpose of the Zoning Ordinance is to have orderly use of property. Nonconforming uses that existed legally prior to the adoption or change of the Zoning Ordinance create land uses that do not conform to the Zoning Ordinance. It is the purpose of this nonconforming use provision to allow legally existing nonconforming uses to be retained with certain limitations to protect adjacent property owners and the public from the inconsistencies created by nonconforming uses. It is the intent that over time all nonconforming uses will be eliminated. The amortization of nonconforming adult establishment uses shall be governed by Section 26-37 of the Code.**

A. **Continuance of Nonconforming Uses.** **A nonconforming use of a building, structure or land that was legal prior to the enactment of the Zoning Ordinance or an amendment to the Zoning Ordinance shall be allowed to continue legally even though such use does not conform with the provisions of the Zoning Ordinance, subject to the following provisions:**

1. **The nonconforming use shall not be expanded to occupy a greater area of land or building area.**

2. The nonconforming use shall continue in the original building structure or land area that was originally occupied by the nonconforming use.
  3. The nonconforming use shall not be intensified or escalated, for example, by increasing the number of deliveries, employees or customers coming to the nonconforming use, or noise, dust, fumes or other pollutants emanating from the nonconforming use.
  4. The nonconforming use shall not be reinstated after it has been abandoned. It shall be prima facia evidence of abandonment for the owner and/or operator of the nonconforming use to:
    - a. discontinue the nonconforming use for twelve (12) months; or
    - b. fail to obtain a new or renew an existing business license as required under the Code for the operation of such nonconforming use; or
    - c. fail to declare and remit the sales tax required by state law for the nonconforming use.
  5. Failure to follow any state, federal or local administrative procedure or regulation that is required for the nonconforming use shall be prima facia evidence of abandonment.
  6. The nonconforming use shall not be changed to another nonconforming use.
  7. The nonconforming use shall maintain any screening or buffering that existed prior to the use becoming a nonconforming use or that was later voluntarily added.
  8. If the use constitutes a nuisance as defined by state law, it is not and shall not become a nonconforming use.
- B. Continuance of Nonconforming Structure or Building. A building or structure that is nonconforming or that contains a nonconforming use at the time of enactment of the Zoning Ordinance or at the time of enactment of an amendment to the Zoning Ordinance may be retained, except that:
1. The nonconforming structure or building shall not be enlarged, altered or rebuilt, except for repairs necessary to maintain the structure or building in a safe and sanitary condition; and

2. The nonconforming structure or building shall not be rebuilt, altered or repaired after damage or deterioration exceed seventy-five percent (75%) of its replacement cost at the time of destruction, except in conformity with this Ordinance.

3. This section does not apply to signs. See Article XXXIII.

C. Dangerous Uses. Nothing in this section shall be construed to allow a use that is dangerous to the general public to continue to exist. Nothing in this section shall be construed not to require changes to buildings and structures to comply with any fire code, life safety code or other safety ordinance or regulation.

~~4.3.1. NONCONFORMING LOTS, USES AND STRUCTURES (amended 04/21/09, TA09-014, Ord. 2009-04-22). Within the zoning districts established by this Ordinance there may exist lots, structures, and uses of both land and structures which were lawful before this Ordinance was adopted or subsequently amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance as adopted or subsequently amended. Nonconforming lots, uses and structures may continue in their nonconforming status with the following limitations and/or requirements. The amortization of nonconforming adult establishment uses, however, shall be governed by Section 26-37 of The Code of the City of Sandy Springs, Georgia:~~

~~A. Nonconforming Lot. A single, lawful lot of record which does not meet the requirements of this Ordinance for area or dimensions, or both, may be used for the buildings and accessory buildings necessary to carry out permitted uses subject to the following provisions:~~

- ~~1. Parking space requirements as provided for in Article XVIII are met; and~~
- ~~2. Such lot does not adjoin another vacant lot(s) or portion of a lot in the same ownership;~~

~~3. If two (2) or more adjoining lots or portions of lots in single ownership do not meet the requirements established for lot width, frontage or area, the property involved shall be treated as one lot, and no portion of said lot shall be used or sold in a manner which diminishes compliance with this Ordinance. This paragraph shall not apply to non-conforming lots when fifty percent or more of adjoining lots on the same street are the same size or smaller.~~

~~B. Nonconforming Uses of Land. When a use of land is nonconforming pursuant to the provisions of this Ordinance, such use may continue as long as it remains otherwise lawful and complies with the following provisions:~~

- ~~1. No nonconforming use shall be enlarged, increased or extended to occupy a greater~~

~~area of land than that which was occupied at the time use became nonconforming;~~

~~2. No nonconforming use shall be moved in whole or in part to any other portion of the lot not occupied by such use at the time the use became nonconforming; and~~

~~3. If any nonconforming use of land ceases for a period of more than one year, any subsequent use of such land shall comply with this Ordinance.~~

~~C. Noneconforming Use of Structures. If a lawful use of structure, or of a structure and lot in combination, exists at the effective date of adoption of this Ordinance or its subsequent amendment that would not be allowed under provisions of this Ordinance as adopted or amended, the use may be continued so long as it complies with other regulations, subject to the following conditions:~~

~~1. No existing structure devoted to a use not permitted by this Ordinance shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a permitted use;~~

~~2. Any nonconforming use may be extended throughout any part of a building which was arranged or designed for such use at the time the use became nonconforming, but no such use shall be extended to occupy any land outside such building;~~

~~3. If no structural alterations are made, any nonconforming use of a structure or structure and land may be changed to another nonconforming use of the same or more restrictive nature;~~

~~4. When a nonconforming use of a structure or a structure and land in combination is replaced with a conforming use, such structure or land may not later revert to a nonconforming use;~~

~~5. When a nonconforming use of a structure or structure and land in combination is discontinued or abandoned for one year, the structure or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located; and~~

~~6. A nonconforming use of a structure and/or a nonconforming use of land shall not be extended or enlarged by attachment to a building or land of additional signs which can be seen from off the land or by the addition of other uses of a nature which would be prohibited generally in the district.~~

~~D. Noneconforming Structures. When a structure exists on the effective date of adoption of this Ordinance or its amendments that could not be built under the terms of this Ordinance because of restrictions on building area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may remain as long as it complies with all other zoning regulations;~~

~~subject to the following conditions:~~

- ~~1. No structure may be enlarged or altered in a way which increases its noneonformity;~~
- ~~2. Destruction, by any means, of more than sixty percent of the gross square footage of a structure shall require that the structure be reconstructed in conformity with the provisions of this Ordinance;~~
- ~~3. Any structure which is moved, for any reason and for any distance whatever, shall conform to the regulations for the district in which it is located.~~

~~E. Rezoning Which Results in Nonconforming Structures:~~

~~When a property containing lawful structures is rezoned, the following shall apply:~~

- ~~1. The approval of the rezoning by the City Council shall automatically reduce minimum yards to the extent necessary for existing structures to comply.~~
- ~~2. All new construction, expansions or additions shall comply with the minimum yard requirements of the new district.~~
- ~~3. Buffers and landscape areas shall be established by conditions of zoning which shall have precedence over the district standards contained in Section 4.23.~~
- ~~4. Destruction or removal of buildings which preexisted rezoning shall reinstate the development standards of the then applicable district provisions of this Zoning Ordinance.~~

~~F. Exemptions Due to City, County or State Action (amended 03/20/07, RZ07-003, Ord. 2007-03-25) (amended 04/21/09, TA09-014, Ord. 2009-04-22). Whenever a lot becomes noneonforming as a result of land acquisition by the city, county, or state, building permits shall be granted for new construction provided the proposed structure complies with all but lot area requirements, and setback requirements shall be reduced without requirement for a variance to the extent of the width of the acquired property.~~

~~Whenever a structure becomes noneonforming as a result of city, county, or state action other than an amendment to this Ordinance, the use of the structure may continue and the structure may be replaced as though no noneonformity exists if, subsequent to such action, the structure is destroyed.~~

4.3.2. OPEN.

4.3.3. HEIGHT LIMITS. ~~The z~~Zoning districts' maximum height limitations for structures shall not apply to the following:

- A. ~~A.~~ Church spires and belfries;
- B. ~~B.~~ Water storage tanks;
- C. ~~C.~~ Cooling towers;
- D. ~~D.~~ Chimneys;
- E. ~~E.~~ Mechanical penthouses located on roofs;
- F. ~~F.~~ Smokestacks;
- G. ~~G.~~ Flag poles;
- H. ~~H.~~ Silos and grain elevators; and
- I. Fire towers

Public and semi-public buildings (except as exempt in Section 4.3), hospitals and schools may be erected ~~to~~ **to sixty (60)** feet in height, and churches and temples may be erected to **seventy-five (75)** feet in height. For each foot that said buildings exceed the height regulations of the **zoning** district in which located, an additional foot of side and rear yard setbacks shall be required.

4.3.4. MINIMUM BUILDING LINES. The minimum yards (setbacks) in each **zoning** district shall establish minimum building lines for all structures except those named in Section 4.2.5 entitled USES AND STRUCTURES PERMITTED IN YARDS, AND OUTSIDE STORAGE.

- A. Multiple Frontage Lots. —Lots adjoining more than one **(1)** public street shall provide a minimum front yard along each right-of-way except corner lots. The setbacks for the street-adjointing side yards of corner lots shall be as specified in the **zoning** district regulations.
- B. Permitted Encroachments into Yards. The following encroachments shall be allowed to the extent specified below.
  1. Non-residential**Residential**. Canopies shall be allowed over walkways or driveways to within **twelve (12)** feet of the street right-of-way or the right-of-way based on the street's functional classification, whichever is farther from the street's centerline. Fuel pumps and pump islands, when permitted, shall be set= back as stated in this paragraph for canopies.
  2. Single ~~-family~~**Family** Residential and Townhouses ~~used~~**Used** for

~~single~~ **Single** family **Family** on ~~individual~~ **Individual** lots ~~Lots~~ of ~~Record~~ (amended 04/21/09, TA09-007, Ord. 2009-04-20). Covered or uncovered porches, decks or patios attached to the main dwelling may extend no more than **ten (10)** feet into a minimum front or rear yard. Awnings may project to within **five (5)** feet of a side lot line. Outdoor play equipment, including, but not limited to, swing sets, play structures and play houses, shall be located in the rear yard and shall be limited to a maximum height of **fifteen (15)** feet. In no instance shall the equipment be set back less than **ten (10)** feet from any side or rear property line. Outdoor play equipment shall not be lighted and any electrical connections shall be prohibited. Any outdoor play equipment installed as of April 21, 2009 shall constitute a nonconforming (grandfathered) structure as defined in Section 3.3.14 of this Ordinance.

3. All Zoning Districts. Architectural features such as cornices, eaves, steps, gutters, fire chases, chimneys and fire escapes may project not more than **thirty-six (36)** inches into any minimum yard.
4. Adjoining Railroads. For those uses which utilize a rail siding for loading and unloading, there shall be no minimum rear yard requirement adjoining the siding.

- C. Flag Lots (deleted 08/01/06, RZ06-036, Ord. 2006-08-51; added 02/19/08, RZ08-003, Ord. 2008-02-07). Minimum yards shall not be identified within the stem portion of a flag lot unless such portion, independent of the flag portion, can meet the requirements of **Section 4.2.2 of this Ordinance**. Measurements for a front yard setback shall begin at the point of intersection of the stem and the flag portion of a flag lot running along the property line the most perpendicular to the stem. A flag lot stem shall not be less than **fifteen (15)** feet in width.

4.3.5. ENCROACHMENT ON PUBLIC RIGHTS-OF-WAY. No privately owned structures other than driveways, access walkways, and mail boxes shall be permitted within a public right-of-way. Landscaping shall be allowed with permission of the Georgia Department of Transportation or as specified in the Tree Conservation Ordinance [See Code Ch. 26, Art. VII], as applicable. Signs and other structures belonging to the **City, the** State of Georgia, Fulton County, ~~Sandy Springs,~~ or a railroad or utility are exempt from this provision.

4.4. OPEN.

4.5. ACCESSORY USES, STRUCTURES, AND SITE FEATURES

4.5.1. CONSTRUCTION OF ACCESSORIES. ~~(amended 03/20/07, RZ07-003, Ord. 2007-03-25).~~ Accessory structures and site features shall be constructed and/or installed concurrently with or subsequent to a principal structure.

4.5.2. REGULATIONS APPLICABLE TO SELECTED ACCESSORY USES, STRUCTURES, AND SITE FEATURES ~~(amended 03/20/07, RZ07-003, Ord. 2007-03-25).~~ The following accessory uses, structures, and site features shall be restricted as stated herein.

A. A greenhouse accessory to a residential use shall be limited in size to one-third **(1/3)** of the floor area of the principal dwelling.

B. Accessory site features shall comply with all minimum yard and setback requirements and shall be screened from abutting properties through the use of fences, walls, and/or landscaping, approved and installed concurrently with the permitting and installation of accessory site features.

4.5.3. ANTENNAS. This provision shall apply to all antennas and towers except those that exceed the maximum height of the **zoning** district in which they are located **as provided in Article XIX of this Ordinance.** ~~(19.3.1 and 19.4.3).~~ Antennas and towers are accessory structures when erected on a residential lot in association with a residential use and must meet all accessory structure requirements for the **District zoning district** in which the antenna is located, except that principal structure height requirements shall control. Antennas which are located on roofs shall be located only on that portion of the roof most closely associated with yard(s) for which accessory structures are allowed. In addition, an antenna shall be designed such that the entire structure will remain on the property or within ~~a fall~~**an** easement if it should fall.

4.6. REFUSE AREAS. Refuse areas shall be identified on site plans for lots improved with structures other than single-family dwellings, and such areas shall be screened to one-hundred percent **(100%)** opacity with fences or walls, or a vegetative screen which complies with the screening requirements of the Tree Protection Ordinance ~~[See Code Ch. 26, Art. VI].~~ ~~The~~ Refuse containers located therein shall not be visible from streets or adjoining properties. Vegetative screens must comply with the provisions of Section 4.23 **of this Ordinance.** Refuse areas shall not be located in required landscape areas, required buffers, required parking areas, or required loading areas.

**For properties on which a public safety issue has been identified by the City's Police Department, an alternative refuse area screening plan may be approved by the Director. For such properties, the owner shall be required to submit a formal request for review to the City's Police Department which shall include**

detail of the observed safety issue. Should an alternative screening plan be approved, said plan shall be effective until such time as the City's Police Department determines that a safety issue no longer exists.

4.7. OPEN

4.8. ANIMALS. This section shall apply to animals other than animals associated with farming as a principal or accessory use.

4.8.1. HORSES. (See AG-1 ~~District~~**district** for standards therein.) One **(1)** horse or other member of the horse (equine) family per fenced acre shall be allowed in association with a single- family dwelling **unit** or in single- family dwelling districts. All structures for the shelter of horses in all districts except the AG-1 ~~District~~**district** shall be:

- A. At least **one hundred (100)** feet from the lot line of any residentially zoned or used ~~property~~ property.
- B. Located within the rear yard.

4.9. OUTDOOR LIGHTING

Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2 foot-candles ~~along an adjoining residential property line~~. Outdoor lighting of recreational facilities in or adjoining residential districts or uses shall be used only between dusk and 11:00 **o'clock** P.M.

4.10. ARCHITECTURAL TREATMENT OF COMMON AGGREGATE BLOCK

Whenever visible from a public street in all except the AG-1 and industrial districts, and whenever adjoining a residential zoning district in all districts, the exterior of all common aggregate blocks shall be provided with an architectural treatment such as stucco, stone, brick, wood or an alternate treatment approved by the Director ~~of Community Development~~. ~~Split rib and marble aggregate block shall not be deemed to be common aggregate block.~~

4.11. FENCES AND WALLS

Fences and walls which conform to the provisions stated herein shall be permitted by the Department ~~of Community Development~~. Fences erected for agricultural purposes in the AG-1 ~~District~~**district** shall be exempt from permit requirements.

- A. Visibility Triangle. Fences, walls and vegetative materials used in association therewith must not obstruct the minimum sight distance requirements which are specified in **the City of Sandy Springs** ~~Subdivision Regulations~~

administered by the Director ~~of the Department of Community Development.~~

- B. Gates ~~(amended 12/16/08, RZ08-025, Ord. 2008-12-63).~~ See Chapter 11 of **the** Land Development Regulations.
- C. Maintenance of Required Landscape Areas. Landscape areas or strips required pursuant to this section shall be maintained in accordance with the requirements of the Tree Conservation Ordinance ~~[See Code Ch. 26, Art. VI].~~
- D. Fence and Wall Materials. Where the Zoning Ordinance or zoning conditions require fences and walls to be solid/opaque, the visual density of the fence shall be such that it can not be seen through. The following standards shall apply to fences and walls.
1. Adjoining Right-of-Way. In all zoning districts except AG-1, M-1, M-1A, and M-2, wire and plastic fencing materials, including chain-link fencing with plastic or wooden inserts, shall not be used adjoining a street right-of-way. The architectural treatment of poured concrete, common aggregate block or concrete block walls shall be approved by the Director ~~of the Department of Community Development.~~ This provision shall not preclude the use of chain link fencing as a security fence around storm water facilities.
  2. Fences Along All Property Lines. Walls and fences constructed along all property lines shall be constructed with a finished side toward the neighboring property.
  3. Barbed Wire. Barbed wire may be used in the AG-1 ~~District~~**district** as long as its use is associated with a legitimate agricultural pursuit. Barbed wire shall not be approved for any single-family dwelling lots including such lots which are located in the AG-1 ~~District~~**district**. Barbed wire may be used for security strands in all but single-family dwelling districts at a height of at least **six (6)** feet above grade.
  4. Minimum Landscape Requirements. A minimum three- **(3)** foot landscape strip shall be provided between a fence or wall and a public right-of-way.
- E. Height. Fences and walls shall not exceed a height of eight **(8)** feet from grade in residential districts. Column and ornament heights are permitted to exceed the maximum fence/wall height up to **three (3)** feet.
- F. Setback. Fences and walls shall be set back a minimum of **three (3)** feet from a public right-of-way.

4.12.

HOME OCCUPATION (~~amended 08/21/07, RZ07-025, Ord. 2007-08-53~~).

A home occupation is permitted as an accessory use of a dwelling unit in any zoning district and its operation and employees are limited to members of the resident family only. The following are limitations on home occupations:

- A. The smaller of **twenty-five percent (25%)** or **seven hundred fifty (750)** square feet of the gross floor area of a dwelling unit may be used for activities devoted to the home occupation.
- B. Accessory buildings and structures may not be used for the home occupation.
- C. There shall be no signs identifying the home occupation, nor shall there be any storage, display or activity associated with the home occupation visible outside the structure.
- D. ~~Said~~ **The following** uses are excluded **from home occupations**: automobile repair or similar operations, restaurants, keeping of animals, funeral homes, retail or wholesale ~~shops~~**uses**, hotel/motel type ~~establishments~~**uses**, taxi services, or any other occupation found incompatible with the intent of this Ordinance.
- E. Resident participants in a home occupation must have the appropriate occupational licensing, including business licenses.
- F. No ~~Home~~**home Occupation**~~occupation~~ shall generate traffic, sound, smell, vibration, light, or dust that is offensive.
- G. No more than two **(2) individual** clients or patrons are allowed on the premises at the same time in conjunction with ~~the a~~ home occupation (except for persons in care at a ~~Family~~**family Day-day Care**~~care H~~**homes**, where no more than six **(6)** clients are allowed); **however, no home occupation within a multifamily dwelling unit shall involve client visits, as provided in subparagraph Q of this section.**
- H. Vehicles kept on site in association with the home occupation shall be used by residents only.
- I. The transporting of goods ~~=for the home occupation~~ by truck is prohibited. Incoming vehicles related to the home occupation shall be parked off-street within the confines of the residential driveway or other on-site permitted parking.
- J. Home occupations must exclude the use of instruments, machinery or equipment that emit sounds (i.e. musical instruments, sewing machines, saws,

drills) that are detectable beyond the **dwelling** unit.

- K. ~~A Family Day-care Home~~ **are-is** prohibited within **a** multi-family dwelling units.
- L. ~~A Family Day-care Home~~ shall provide outdoor play areas as required by Georgia law, but such areas shall be limited to side or rear yards outside the minimum yard area, and shall not occupy any yard adjoining a street.
- M. ~~A Family Day-care Home~~ shall be located at least **one thousand (1,000)** feet in all directions from any other such use operated as a ~~Home Occupation~~ **occupation**.
- N. ~~Family Day-care Home~~ **Hours of operation of a family day care home operated as a home occupation** shall be limited to Monday through Saturday from ~~six 6:00 o'clock~~ **seven 7:00 o'clock** A.M. to ~~seven 7:00 o'clock~~ **seven 7:00 o'clock** P.M.
- O. ~~A Family Day-care Home~~ operators shall have a current, certified copy of the operator's State of Georgia ~~Family-family Day-day Care care Home-home~~ registration which shall be filed with the business license application and renewals.
- P. No home occupation shall be operated so as to create or cause a nuisance.
- Q. The following are additional limitations on home occupations within multi-family dwelling units:
1. No home occupation within **a** multi-family dwelling units shall involve customer or client visits, and no clients or customers shall be served on site.
  2. If the property on which the home occupation is located is a rented multi-family dwelling unit, written approval from the owner or management of the property allowing the home occupation on the premises must be obtained, submitted to the City of ~~Sandy Springs~~ prior to the issuance of a ~~Business License/Occupation Tax Certificate~~ **business license/occupation tax certificate**, and maintained on the premises.

4.13. OUTPARCEL DEVELOPMENT.

Outparcel development permitted as a condition of zoning approval and identified on a ~~Site Plan~~ **site plan** shall comply with the following standards:

- A. The ~~total-gross~~ floor area for outparcels shall be included in the ~~total-gross~~

floor area allowed for the larger parcel.

- B. Access for outparcels shall be from internal **entrance** drives with no direct access to public roads.
- C. Each outparcel abutting a public right-of-way shall have a minimum of **two hundred (200)** feet of frontage on that public right-of-way.
- D. Internal entrance drives shall be located at least **one hundred (100)** feet from any publicly dedicated right-of-way.

4.14. CEMETERY PROTECTION ~~(added 02/19/08, RZ08-003, Ord. 2008-02-07; amended 04/15/08, RZ08-010, Ord. 2008-04-17).~~

A. Definitions. ~~As used in this section, the term:~~

- ~~(1) "Archeologist" means any person who is a member of or meets the criteria for membership in the Society of Professional Archaeologists and can demonstrate experience in the excavation and interpretation of human graves.~~
- ~~(2) "Burial ground" means an area dedicated to and used for interment of human remains. The term shall include privately owned burial plots, individually and collectively, once human remains have been buried therein. The fact that the area was used for burial purposes shall be evidence that it was set aside for burial purposes.~~
- ~~(3) "Burial object" means any item reasonably believed to have been intentionally placed with the human remains at the time of burial or interment or any memorial, tombstone, grave marker, or shrine which may have been added subsequent to interment. Such term also means any inscribed or uninscribed marker, coping, curbing, enclosure, fencing, pavement, shelter, wall, stoneware, pottery, or other grave object erected or deposited incident to or subsequent to interment.~~
- ~~(4) "Cemetery" means any land or structure in the City of Sandy Springs dedicated to and used for interment of human remains. It may be either a burial park for earth interments or a mausoleum for vault or crypt interments or a combination of one or more thereof.~~
- ~~(5) "Human remains" means the bodies of deceased human beings in any stage of decomposition, including cremated remains.~~

~~B. Cemetery Protection.~~ For any parcel containing, or adjacent to, a parcel containing a cemetery, burial ground, human remains or burial object(s), there shall be no land disturbing activity or timbering for the purposes of re-

developing or changing the use of any part of such land unless approved by the ~~City of Sandy Springs Department of Community Development~~. Where required by law, the person or entity seeking a permit shall also comply with the provisions of O.C.G.A. § 36-72-1, et seq.

~~€~~**B.** Exemption. A cemetery or burial ground that is owned, operated and used by a church, temple or place of worship shall be exempt from the provisions of this section.

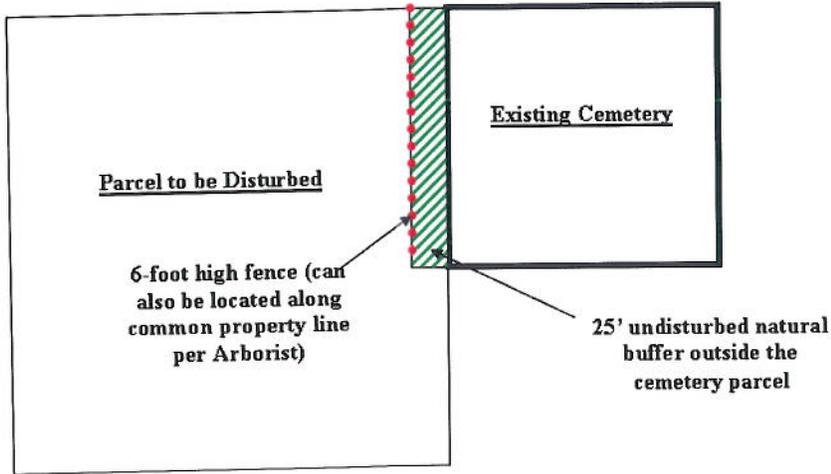
~~Đ~~**C.** Development Standards. The following development standards shall be required as a part of the application process for a ~~Land-land Disturbance~~ **disturbance Permit-permit** or ~~Building-building Permit-permit~~ on any parcel described above; provided, however, that any parcel adjacent to a cemetery or burial ground shall only be required to meet standards **in subsections €3, Đ4,** and ~~E~~**5** below.

- (1) A report prepared by an archeologist determining the boundary of the cemetery or burial ground and stating the number of graves believed to be present and their location as can be determined from the use of minimally invasive investigation techniques, including remote sensing methods and the use of metal probes.
- (2) A survey of the cemetery prepared by or under the direction of a registered surveyor showing the location of the boundaries of the cemetery or burial ground based on an archeologist's report.
- (3) A **twenty-five (25-)** foot natural undisturbed buffer shall be provided around the perimeter of the outmost burials, as determined by an archeologist, if a cemetery or burial ground is located on the parcel of land to be developed. If a cemetery or burial ground is adjacent to the parcel to be developed, a **twenty-five (25) foot 25-foot** natural undisturbed buffer shall be provided inside the common property lines upon the parcel where the ~~Land-land Disturbance-disturbance Permit-permit~~ or ~~Building-building Permit-permit~~ is being sought.
- (4) A temporary tree protection fence shall be installed on the outer perimeter of the **twenty-five (25) foot 25-foot** natural undisturbed buffer before any land disturbing activity occurs. If the cemetery or burial ground is located on an adjacent parcel, the tree protection fence shall be installed on the outer perimeter of the **twenty-five (25) foot 25-foot** natural undisturbed buffer before any land disturbing activity occurs. The temporary tree protection fence shall remain in place until construction is completed.
- (5) A permanent ~~6-six~~ **(6)** foot high fence or wall with a gate shall be

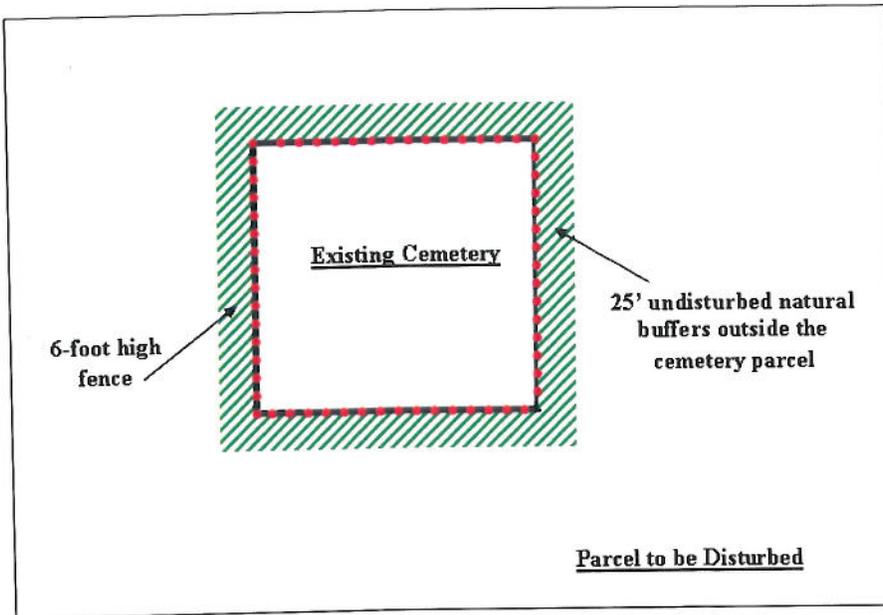
constructed along the perimeter of a cemetery or burial ground on a parcel for which land disturbing activity is sought. The fence shall be constructed of a durable metal material. At minimum, the fence shall be black vinyl-clad chain-link. Uncoated chain-link fence is prohibited. The location of the fence shall be as determined by an archaeologist. If the cemetery or burial ground is located on an adjacent parcel, the fence shall be located either along the outside border of the **twenty-five (25) foot** ~~25-foot~~ natural undisturbed buffer or along the common property line(s) as may be approved by the ~~Sandy Springs City Arborist~~ **arborist**, to avoid damage or removal of existing trees. The fence gate shall have a latch and be **four (4)** feet wide if the cemetery or burial ground is inactive, or **ten (10)** feet wide if active.

- (6) Uninhibited daylight access to the cemetery or burial ground shall be provided via a **twenty (20)-** foot easement to provide ingress and egress to the cemetery or burial ground, subject to the approval of the ~~Sandy Springs Director of Community Development~~, which shall be recorded with the Clerk's Office of the Superior Court of Fulton County.
- (7) A maintenance plan for a cemetery, burial ground, or buffer located on the parcel for which a ~~Land Disturbance~~ **disturbance Permit permit** or ~~Building~~ **building Permit permit** is sought shall be developed and implemented. Said maintenance plan shall be continued in perpetuity by the owner, developer, or homeowners association of the proposed development.
- (8) The location of a cemetery or burial ground, as identified by the surveyor, shall be included on the recorded plat.
- (9) A small plaque or marker with the name of the cemetery or burial ground, range of burials and any other historical information may be placed on the cemetery or burial ground fence.

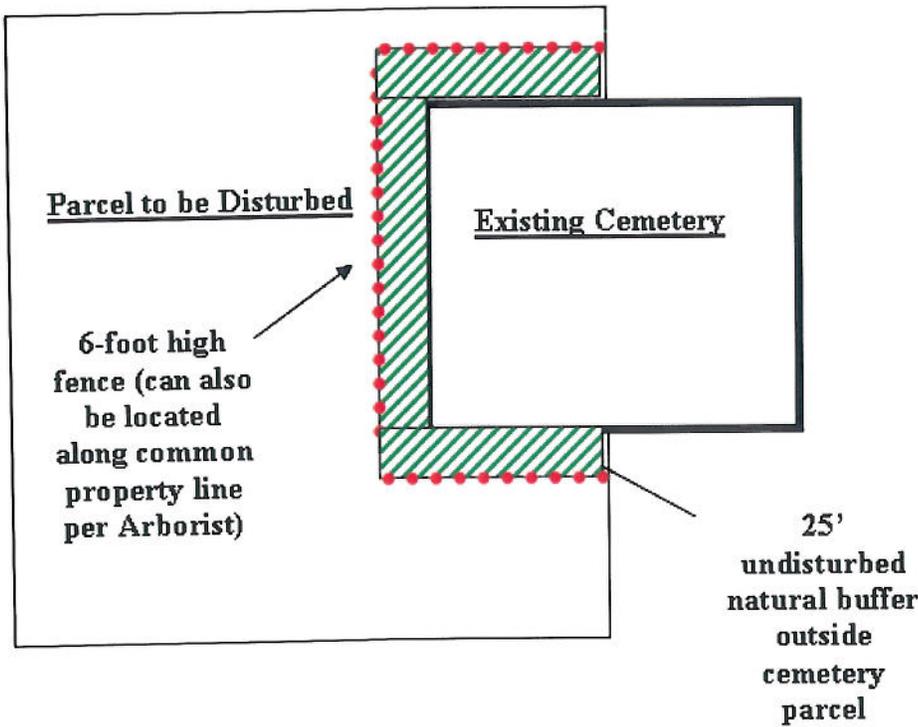
**Figure 4.14.1** – Option A: Cemetery Adjacent to a Disturbed Parcel



**Figure 4.14.2 – Option B – Cemetery Inside the Disturbed Parcel**



**Figure 4.14.3 – Option C – Cemetery Adjacent to a Disturbed Parcel**



4.15.—4.22. OPEN.

4.23. TREE CONSERVATION ORDINANCE, ADMINISTRATIVE STANDARDS AND BEST MANAGEMENT PRACTICES. ~~(amended 03/20/07, RZ07-003, Ord. 2007-03-25).~~

The following standards for tree ~~preservation~~**conservation** are as set forth ~~by~~**in** the ~~City of Sandy Springs~~ Tree Conservation Ordinance, Administrative Standards, and Best Management Practices, adopted by the City Council on February 6, 2007 and effective on that same date.

4.23.1. MINIMUM LANDSCAPE STRIPS AND BUFFERS.

- A. Landscape strips shall be provided along all lot lines, as specified in Table 4.23.1, except when zoning buffers are required.
- B. Zoning buffers shall be provided along all lot lines, as specified in Table 4.23.1, adjacent to properties zoned AG-1, R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, TR, A~~1~~, ~~2~~—A-L, NUP, CUP, and MIX with residential components, and adjacent to all single family residential uses in all zoning districts. (See Illustration 4.23.1)

- C. TR, A and A-L ~~zoned~~**zoning** districts shall provide landscape ~~areas~~**strips** adjacent to TR, A, and A-L ~~zoned~~**zoning** districts, as specified in Table 4.23.1, unless adjacent properties are developed with single family residential uses. ~~—If adjacent properties are developed with single family residential uses, zoning buffers are required as specified in Table 4.23.1. (See Illustration 4.23.1)~~
- D. Zoning buffers shall be undisturbed except for approved access and utility crossings and re-plantings as required by the ~~Sandy Springs~~**City** Arborist.
- E. **In compliance with the** Tree Conservation Ordinance, ~~a~~**An** additional setback of ten **(10)** feet for all improvements shall be interior to all zoning buffers as specified in Table 4.23.1. No reduction of the ten **(10)** =foot improvement setback is allowed nor shall any grading or land disturbance or tree clearing be allowed within this improvement setback unless permission is obtained from the Director ~~of the Department of Community Development~~ through an ~~Administrative~~**administrative Variance**~~-variance~~ pursuant to Section 22.4 **of the Zoning Ordinance**. Said approval shall include a site visit report and recommendation by the City Arborist.
- F. Fences and/or walls shall be located interior to any required **zoning** buffers and/or improvement setbacks except that when zoning buffers are required between properties zoned for single family ~~residences~~**residential use** or developed with single family residences, fences may be constructed along side and rear lot lines.

Unless otherwise specified, lots developed with single family ~~detached~~dwelling units are not required to provide landscape areas or zoning buffers.

When minimum landscape areas or zoning buffers for uses in existing structures do not meet the requirements herein, conditions of zoning shall apply.

Whenever deemed necessary to protect adjoining or nearby properties or to otherwise promote the public health, safety or welfare, the City Council may specify conditions which require increased landscape strips and/or **zoning** buffers, setbacks, berms, or other treatments to protect surrounding and nearby properties.

Table 4.23.1

LANDSCAPE AREAS (feet)					BUFFERS (feet)			IMPROVEMENT SETBACKS (feet)
DISTRICT*	FRONT	SIDE CORNER	REAR	INTERIOR	SIDE	REAR	ALL ROAD FRONTAGES	
AG-1	40	20	10	10	25	50		10
R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP	40	20	10	10	25	50		10
TR	40	30	10	10	25	40		10
A	40	40	10	10	25	50		10
A-L	40	20	10	10	25	50		10
MHP	Landscaping Plan Required for Entire Development				50	50	100	10
MIX	20	10	10	5/10**	25	50		10
O-I	20	10	10	10	25	50		10
C-1	10	10	5/10**	5/10**	25	50		10
C-2	10	10	5/10**	5/10**	35	75		10
M-1A	10	10	0/5**	0/5**	50	100		10
M-1	10	10	0/5**	0/5**	50	100		10
M-2	10	10	0/5**	0/5**	50	100		10

\*Nonresidential uses only.

\*\*The second number applies when a lot line adjoins a less intense non-residential (except AG-1) district.

4.23.2. PARKING LOT LANDSCAPING (~~amended 03/20/07, RZ07-003, Ord. 2007-03-25~~).  
At-grade, non-single-family parking lots shall provide minimum ten (10) foot wide landscape islands at the end of each parking bay, and a ten (10) foot wide landscape

island every sixth (6<sup>th</sup>) space (ex. ~~Landscape~~ **landscape** island, then five (5) parking spaces, then a landscape island, etc.). Such landscape islands shall include minimum three (3) inch caliper shade trees as approved by the City ~~of Sandy Springs~~ Arborist and minimum soil volume as stated in Section A.12, *Landscape Strips, Buffers, and Parking*, of the Administrative Standards. Landscaping in ~~these~~ **landscape** islands ~~should~~ **shall** preserve and maintain adequate sight lines from the minor lane to the major lane. Alternate methods of landscaping parking lots **(i.e. vegetative systems that can be used to quantify a reduction in parking lot runoff and improvement of water quality, and/or an overall reduction in the heat island effect of parking lots)** may be approved whenever the Director ~~of the Department of Community Development or his/her designee~~ determines that the alternate method equals or exceeds this standard.

4.23.3. OPEN

4.23.4. OPEN

4.24. ~~4.29.~~ OPEN.

4.30. ZONING TEXT, DISTRICT CLASSIFICATIONS AND BOUNDARIES.

In order to regulate the location of structures, the height and bulk of structures, the use and intensity of use of lots and structures, and to regulate open spaces and aesthetics, the City ~~of Sandy Springs~~ is divided into zoning districts which are individually described in this Ordinance. ~~Those~~ **The zoning** districts are set forth below from lowest to highest intensity. Within the listing are individual zoning districts which are no longer active but which continue to apply to properties zoned in those classifications. ~~Those inactive zoning districts are contained in Appendix A, Inactive Zoning Districts, at the end of this Ordinance. Appendix A includes the inactive A-1, A-O, old TR and Suburban A, B and C Districts of Fulton County.~~ Zoning districts as of the date of adoption of this Ordinance of amendment are:

<del>Suburban A</del>	Single Family Dwelling District
<del>Suburban B</del>	Single Family Dwelling District
<del>Suburban C</del>	Single Family Dwelling District
R-1	Single Family Dwelling District
R-2	Single Family Dwelling District
AG-1	Agricultural District
R-2A	Single Family Dwelling District
R-3	Single Family Dwelling District
R-3A	Single Family Dwelling District
R-4A	Single Family Dwelling District
R-4	Single Family Dwelling District
R-5	Single Family Dwelling District
R-5A	Single Family Dwelling District
R-6	Two Family Dwelling District

NUP	Neighborhood Unit Plan District
CUP	Community Unit Plan District
MHP	Mobile Home Park District
O-I	Office and Institutional District
<del>TR (old)</del>	<del>Townhouse Residential District</del>
TR	Townhouse Residential District
A	Medium Density Apartment District
<del>A-1</del>	<del>Apartment Dwelling District</del>
A-L	Apartment Limited Dwelling District
<del>A-O</del>	<del>Apartment Office District</del>
MIX	Mixed Use District
C-1	Community Business District
C-2	Commercial District
M-1	Light Industrial District
M-1A	Industrial Park District
M-2	Heavy Industrial District

4.30.1. BOUNDARIES. The boundaries of the ~~several~~ **City** zoning districts are shown on the City ~~of Sandy Springs~~ zoning maps. Street rights-of-way shall serve as district boundaries adjoining property lines, and all such ~~rights-of-ways~~ shall not be zoned. Inconsistencies between legal boundary descriptions submitted at the time of rezoning and lot lines identified from more recent surveys shall be interpreted to attach the zoning to the legal lot.

4.30.2. ZONING TEXT. The official text of the ~~City of Sandy Springs~~ Zoning Ordinance shall be kept on file by the Clerk to the City Council. The Department ~~of Community Development~~ shall provide all City departments with copies of amendments **to the Zoning Ordinance** within **fifteen (15)** days of approval by the City Council, and shall provide a subscription and update service for the public.

4.30.3. ZONING MAPS. The City ~~of Sandy Springs~~ zoning maps and all information contained thereon are part of this Ordinance and **shall** have the same force and effect as if fully set forth and/or described herein. The zoning maps are on file with the Department ~~of Community Development~~.

4.30.4. TERRITORY ADDED. Any unincorporated Fulton County territory which may be annexed to the City ~~of Sandy Springs~~ or which may be unincorporated from a municipality within Fulton County, **including any border property**, shall be classified in the R-1, ~~Single-single Family-family Dwelling-dwelling District-district~~ **district** until, as applicable, the territory may be more appropriately zoned by the City Council based upon ~~the~~ recommendations of ~~the~~ Department staff and the Planning Commission with consideration given to the suggestion of the Comprehensive Plan Land Use Map and/or zonings of adjacent properties in the City and Fulton County.

4.30.5.

ABANDONMENT. Whenever any street, alley, or other public way is abandoned by ~~Sandy Springs~~**the City** or by the State of Georgia, the zoning district adjoining such street, alley or public way shall be extended to the center of such public way.